APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,452	06/25/2001	Prabhakar Gopalan	AUS920010328US1	8688

45371 7590 04/19/2007		EXAMINER

IBM CORPORATION (RUS)
c/o Rudolf O Siegesmund Gordon & Rees, LLp
2100 Ross Avenue
Suite 2600
DALLAS, TX 75201

ART UNIT	PAPER NUMBER

DATE MAILED: 04/19/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/888,452	Applicant(s) GOPALAN, PRABHAKAR	
	Examiner David Y. Jung	Art Unit 2134	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on *10/2004* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

pages 1 of 7, 5 of 7 not readable, see attached.

DETAILED ACTION

CLAIMS PRESENTED

Claims 1-26 are presented.

Non-Responsive/Defective Supplemental Appeal Brief

The Supplemental Appeal Brief filed on 10/27/2004 is not fully responsive to the

prior Office Action because of the following omission(s) or matter(s): The Supplemental

Appeal Brief, as officially received by USPTO, clearly omits parts of pages 1, 3, 5, 7 of

the Supplemental Appeal Brief. See official records of USPTO. See 37 CFR. Since

the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH**

or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within

which to supply the omission or correction in order to avoid abandonment.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

Response to Potential Arguments

At the moment of the writing of this Office Action that concerns the Brief filed in

the year 2004, the year is already 2007. Due to the unusual amount of time that this

Brief took to become available to the examiner, perhaps the equity of the situation

would suggest that Applicant be permitted to know what would likely have been an

examiner's response to Applicant. On this matter, the Office notes that this is a

conjecture based on guesses from an incomplete fax transmission of 10/27/2004. For

example, page 5 of 7, which appears to have contained crucial portions of Applicant,

has not been fully sent to the Office. Thus, on guesses, the Office provides the

following conjecture.

The following is a guess (made with the assistance of an OCR) of the middle of

page 5 of the incomplete transmission of 10/27/2004:

> The examiner's rejection based upon TIPS is incorrect. The examiner
> d~es not explain   /
>   how
>   /
> TIPS is relevant to the applicant's claimed invention. The examiner
> presents oaly a eonelusory
> statement that the "transient keyword permits e-commerce by ~mtrolling
> Jersistenee during
> The TIPS reference is not relevant to applicant's claimed inventio
> because transient
> keywords, transient values, and serialization, are tools available in JAV,
> programming .for
> sending complex data structures to a file across a network.
> Applic~xt's izx,~entign, on the other
> hand, involves tile use of a three number system. In the three number
> system each of two pat~ics
> receives two of the three numbers, but each have only one out of the
> three numbers in Common.
> The three number system is used to control access to an account,
> and does
> for converting objects into a stream of bytes tbr writing to a file across
> a n,
> by TIPS. For exmxaple, in regard to transient values and serialization,
> TIPS
> not;claim a method
> ..twOrk, as discussed
> tares:

As far as the Office can discern, Applicant seems to make the following

arguments:

1.   That: the reading of Tips reference was not justified by MPEP and In re

Vaeck (cited in portions of MPEP cited by Applicant).

   2.   That: Tips reference is irrelevant to Applicant's claimed invention.

   3.   That: Tips reference is not such an extremely well known reference to the point of justifying the examiner's statement that "transient keyword permits e-commerce." In other words, Applicant disputes the extreme prevalence of knowledge of the contents of Tips reference.

   4.   That: Tips reference is not such an extremely well known reference to the point of justifying the examiner's assertion that Tips reference clearly teaches (without reasonably justifying any further discussion) the use of the multiple numbers in the way Applicant has claimed. In other words, Applicant disputes the clear applicability of the contents of Tips reference.

   These arguments shall be addressed in turn.

   First Applicant cited MPEP, which in turn cited In re Vaeck. The very underlined (as quoted by Applicant) passages of In re Vaeck refer to the ordinary skill in the art. What is this ordinary skill in the art? Is it the knowledge of a typical well-educated person? Is it the knowledge of a typical patent professional? Obviously neither. The ordinary skill in the art merely refers to the ordinary skill in the art of the claimed invention.

   For this application, the ordinary skill in the art is not difficult to discern. For example, the very assignee of this application, IBM clearly promotes the Java language. See, for instance, http://www-128.ibm.com/developerworks/java/. As for the feature in

Tips reference (the transient keyword), this is found in most beginners (those who have

never previously programmed a computer) 's tutorials on Java. In most tutorials, this

transient keyword is taught as the way to actuate distinctly different numbers to

determine whether the accessing party can modify the account data in the database

used in e-commerce. See, for instance, Churchill

(http://www.churchillobjects.com/c/11009h.html). This is a beginner's tutorial, and

merely describes what any ordinary Java programmer, such as those who can read

http://www-128.ibm.com/developerworks/java/ from IBM (Applicant's assignee), already

knows. In the first paragraph of Churchill, the credit card numbers and passwords are

discussed. In the second paragraph of Churchill, the transient keyword is discussed.

Note that the features that Applicant labeled as "irrelevant", such as serialization, is

discussed.

Thus, the reading of Tips reference was justified by MPEP and In re Vaeck (cited

in portions of MPEP cited by Applicant).

Second, note that Churchill, a beginner's tutorial, discusses how the transient

keyword is used for situations that are even more general than credit card numbers and

passwords.

Thus, Tips reference is relevant to Applicant's claimed invention.

Third, note that Tips reference is the official announcement from Sun

Microsystems that the transient keyword is now available for public use. As discussed

in the previous paragraphs, this transient keyword is assumed to be known and to be

used by any ordinary Java programmer, such as those who can read http://www-

128.ibm.com/developerworks/java/ from IBM (Applicant's assignee)

Thus, Tips reference is such an extremely well known reference to the point of

justifying the examiner's statement that "transient keyword permits e-commerce." In

other words, the extreme prevalence of knowledge of the contents of Tips reference is

clear.

Fourth, again, note that Tips reference is the official announcement from Sun

Microsystems that the transient keyword is now available for public use. As discussed

in the previous paragraphs, this transient keyword is assumed to be known and to be

used by any ordinary Java programmer, such as those who can read http://www-

128.ibm.com/developerworks/java/ from IBM (Applicant's assignee)

Thus, Tips reference is such an extremely well known reference to the point of

justifying the examiner's assertion that Tips reference clearly teaches (without

reasonably justifying any further discussion) the use of the multiple numbers in the way

Applicant has claimed. In other words, Applicant the applicability of the contents of Tips

reference is clear.

These conjectures are the potential responses based on guesses from an

incomplete fax transmission of 10/27/2004.

Conclusion

The art made of record and not relied upon is considered pertinent to applicant's

disclosure. The art disclosed general background.

Points of Contact

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or

"DRAFT")

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to David Jung whose telephone number is (571) 272-3836

or Kambiz Zand whose telephone number is (272) 272-3811.

David Jung

Patent Examiner

4/15/07